

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 19015
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

This case arises from a timely protest of a State Tax Commission staff decision adjusting the property tax reduction benefit for 2005. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision based on the file.

[Redacted] (petitioner) filed a property tax reduction application on or about February 23, 2005. During review of the application, the staff noted the petitioner qualified to receive the benefit as the widow of [Redacted] who died in 2001. Because the death certificate was not attached, the staff contacted the petitioner to obtain a copy.

The staff sent the petitioner a letter advising her of the intent to deny her the benefit until her status as a widow could be verified. The petitioner appealed the determination and asked for additional time to secure a copy of the death certificate from the State of California. The file was transferred to the Legal/Tax Policy Division for administrative review.

When the petitioner did not respond to a letter from the Tax Appeals Specialist advising her of her appeal rights, the Specialist telephoned the petitioner at her home. During that conversation, the petitioner explained that, because of a situation that occurred when [Redacted] died, she was not shown as his wife when he died. In the death certificate, it shows Mr. [Redacted] as a single man or a divorced man. She was not sure which way it was shown in the certificate but she was told she was not named as his wife at the time of his death. She said she would not be submitting a copy of

[Redacted]'s death certificate for the Tax Commission to review.

Idaho Code § 63-701 uses definitions to describe the conditions that must exist for an applicant to qualify to receive the property tax reduction benefit. The Code states in pertinent part:

63-701. DEFINITIONS. As used in this chapter:

(1) **"Claimant" means a person who has filed a claim** under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which the claimant first filed a claim on the homestead in question, a claimant must be an owner of the homestead and **on January 1 of said year a claimant must be:**

- (a) Not less than sixty-five (65) years old; or
- (b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or
- (c) **A widow** or widower; or
- (d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or
- (e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States department of veterans affairs; or
- (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or
- (g) Blind. (Emphasis added.)

The code sets out certain eligibility requirements for persons seeking a property tax reduction benefit. In her application for the benefit and in her letter of protest, the petitioner claims she is eligible because of her status as a widow.

Webster's Ninth New Collegiate Dictionary defines widow as "a woman who has lost her husband by death and has not remarried." Husband is defined as "a married man." Divorce is "a legal dissolution of a marriage." A divorced man or single man could not have left a widow.

The petitioner explained that she was unable to handle the arrangements when Mr. [Redacted] passed away so a relative supplied the information used to prepare the death certificate. She said she has made no attempt to have the document corrected.

Property Tax Administrative Rule 600 States:

**600.PROPERTY EXEMPT FROM TAXATION (RULE 600).**

The burden of proof of entitlement to the exemption is on the person claiming exemption for the property.

Unfortunately, the petitioner does not meet any of the requirements to qualify as a claimant for the property tax reduction benefit. She must be denied the benefit.

The Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the board of county commissioners under Idaho Code § 63-711--the hardship exemption.

WHEREFORE, the decision of the State Tax Commission staff to deny the 2005 property tax reduction benefit is hereby APPROVED, AFFIRMED and MADE FINAL.

An explanation of petitioner's right to appeal this decision, if it is adverse to petitioner, is enclosed with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

## CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this \_\_\_\_\_ day of \_\_\_\_\_, 2005, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.

[REDACTED]

[REDACTED]

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